

Notice of Allowability

Application No.

10/710,754

Examiner

Prabodh M. Dharja

Applicant(s)

OSTROMEK ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03-27-2006.
2. ☒ The allowed claim(s) is/are 1-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 02-27-06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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1. **Status:** Please all the replies and correspondence should be addressed to Examiner's new art unit 2629. Receipt is acknowledged of papers submitted 03-27-2006 under request for reconsideration which, have been placed of record in the file. Claims 1-39, are pending in this office action.

Response to Amendment

2. Applicant's arguments, see Remark, filed 03-27-06, with respect to Claims 1, 14 and 27 regarding "image fusion" system, "securing means attached to the sensor unit for mounting the sensor unit to the head adapter; at least a first and second sensor arranged along a sensor axis" and "Securing means attached to the sensor unit for mounting the sensor unit to the head adapter; sensor unit to the head adapter; the sensor unit being mounted above an ocular axis formed been a pair of eyes of the user when the sensor unit is attached to the head adapter element; the sensor axis when the sensor unit is secured to the user with the head adapter element is essentially perpendicular the user's ocular axis" have been fully considered, searched and are persuasive as they do overcome prior art rejection, which puts application number 10710754 in condition for allowance.

3. Claims 1-39 are allowed.

4. The following is an examiner's statement of reasons for allowance:

Applicant's argument filed on 03-27-2006, are convincing. As argued by applicant in remarks under claim rejection page 3, paragraph 2, Lines 1-4, page 4, paragraph 4, Lines 4-7 and

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page 6, paragraph 4; the prior art of (US patent # 5,495,576) to Ritchey in view of US Patent (5,583,795) to Smyth, and US patent (6,580,448 B1)) to Stuttler fails to recite or disclose the uniquely distinct features represented by underlined bold claim below;

A man-portable sensor fusion system comprising: **sensor unit having at least a first and second sensor arranged along a sensor axis; head adapting means for providing support to mount at least one selected device about a user's cranium; and, securing means attached to the sensor unit for mounting the sensor unit to the head adapter; the sensor unit being mounted above an ocular axis formed between a pair of eyes of the user when the sensor unit is attached to the head adapter element; the sensor axis when the sensor unit is secured to the user with the head adapter element is essentially perpendicular to the user's ocular axis.**

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prabodh M Dharia whose telephone number is 571-272-7668. The examiner can normally be reached on M-F 8AM to 5PM.

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6. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:


Commissioner of Patents and Trademarks

Washington, D.C. 20231

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May 08, 2006


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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600